THE CHRISTIAN SUCCESSION ACT AMENDMENT BILL.

Mr. K. K. Kuruvilla: Sir, I move that the Christian Succession Act Amendment Bill be taken up for consideration.

Mr. T. Krishna Pillai: I second it.

The motion was carried

Mr. K. K. Kuruvilla: The amendments which I propose are made on the ground that through the Act of 1092 the daughters, widows, and wives have not secured the advantages which they should legitimately get. This was pointed out by Mr. P. Cherian, President of the Committee on the Act of 092 and by Rao Bahadur P. I. Varughese, President of the Committee on Cochin Christian Succession Bill.

Within these 25 years after the Bill became Law, the position of women in the Christian community has changed—for, one thing many women have gone into service as teachers, nurses, Doctors, Clerks and have undertaken the responsibility of maintaining the family. There are also women among them who remain unmarried after 30 to 35 years of age.

HISTORY.

Towards the middle of the 19th century, the judicial officers felt very keenly the lack of a definite Indian Succession Act since they found the custom various and in certain cases conflicting. They therefore framed a number of questions which were submitted to Mar Mathew Athanasius. He prepared his answers basing his conclusions on the books he had read and the custom as then prevailed. The authorities he seems to have consulted were :—

(1) Hundaya Canon (Nomo Canon) by Gregory Bar Hebraes (1226-1286).

(2) The Canon of 1857 prepared by Mar Athanasius.

(3) Muthulakshmi Naidu's pamphlet—Mr. Naidu was the Tahsildar of Kottayam about 1870.

After the publication of Mr. Mathew Athanasius, statement on Succession, Mr. P. Cherian in 1894 issued a leaflet on this question.

When about 1909, the popular Assembly came into being, the Christian members made strong representations regarding the need for legislation. The Government therefore appointed a committee in 1911 to investigate and report on the matter. They also submitted a draft Bill to the Council for consideration. This Bill was given to the Select Committee which redrafted the Bill with important and unfortunate changes for the consideration of the Council,

LIBRARY ARCHIVES Kerala Legislative Assembly

There was great excitement in the community and it was as a result of agitation that reactionary changes were introduced. From what has been said it may be seen that in the matter of Succession, the women are at a disadvantage. Whatever be the wealth of the father, the daughter can be sent off with Rs 5,000 or 1/4 of a brother's share. The widow and the mother have only life interests. The property is not her own and she cannot sell it.

The amendments suggested are to remedy these disadvantages to our women. My first amendment is that the boys and girls should have equal rights in the father's property and the share of the widow and the mother in real property should be made absolute.

In making this change I am glad that I have the support of most thinking people in this country. Both the Presidents of the Travancore and Cochin Committee in their dissenting minutes have regretted the discrimination shown in the Act. of 1092.

As regards the proportion of the daughters' share our Act gives 1/4 or Rs. 5,000 which ever is less. Mar Mathew Athanacius says the value of a daughter's share should be equal to that of a son. In English Law except in the case of the eldest son, sons and daughters are treated alike. In the Indian Christian Succession Act all children share the father's property alike. St Ligoun, a great Catholic Scholar of the 18th century, says that a daughter is entitled to a share equally with the son in her father's estate. There are Christians in the State who follow equal division of property. R. C. Christians of the Latin Rite, certain Protestant Christians living in Karunagapally, Quilon, Chirayinkil, Neyyattinkara and other taluks among whom boys and girls share property alike are exempted from the operation of Sections 24, 28 and 29 of the Act of 1092.

The other serious objection to the existing Code is the creation of Life Estates for women. The idea of life Estate is unknown to the law of Succession among the important communities on the W. Coast, though it is known among certain sections of the Hindus. The Life Estate has very serious defects :—

1. It leads to inevitable quarrels. If property has to be sold for debts or other causes, the widow or mother would insist that the real property should be sold first while the males would ask for moveable personal property. We may quote other instances.— *e. g.* a widow insisting on sharing the house with the son of the deceased first wife.

2. The Estate will go down in value since the widow or mother desires only to get as much out of the land during their life time.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. K. Kuruvilla.]

3. An immoral woman may occupy the land during her life time but not a woman who marries.

4. There is no provision which excludes a mother who has already remarried from inheriting to her son by her former husband.

This persistence of the economic difference between man and woman is based on the primitive socio-religious idea that the family was the unit of society and not the individual. "So long as family is the unit the woman has no real place in the home since she goes to another home. None of the descendants of a female— to quote Sir Henry Mayne- are included in the primitive notion of the family relationship".

Along with this is the religious idea that property should be used for the performance of religious rites for the souls of the departed and that these rites from time immemorial were reserved for the male members of the family.

The foundation on which this inequality is based is now destroyed so far as christians are concerned.

Christianity has admitted that wealth and other material things are for the development of human personality. Wealth is for the individual to develop the ideal ends of life.

"We therefore take it", says Rao Bahadur P. I. Varghese, President of the Committee on Cochin Succession Bill, "that it is on account of the implications of our religion, as gradually they came to be realised by the community that we cast off the joint family holding of property in favour of individual ownership."

May I now turn to the chief objections against my proposed amendments.

1. The sons add to the Tarwad property while the daughters do not contribute anything towards it. The same argument may be adduced towards the younger members of the family. Moreover adult members support their families and themselves out of the family property. It must also be added that many a girl is now faced with the necessity of supporting their families and themselves.

2. The grant of a share to daughters would lead to fragmentation. When a common estate is small, its further fragmentation should be admitted to be an economic evil. And it is already small enough. I am also aware that thinking Nair gentlemen are advocating a change in their succession law.

But the remedy does not lie in defrauding a girl of her share but along other lines.

LIBRARY ARCHIVES Kerala Legislative Assembly

Those who have money may buy the share of the rest or combine to sell the whole property and divide the money among themselves. The State may and I hope it will very soon pass a law for compulsory co-operative farming.

3. Women would become more independent and disturb the harmony of the home. I have known women who have no possessions of their own causing as much nuisance in the home as rain drops in a leaking house. Disharmony does not depend on independence or otherwise but on good will and charity which are the property of all who desire it.

4. There are men who, hiding behind St. Paul, advocate the statue quo. I need only say that Paul only advises women to be subject unto their husbands—not men to force their wives to subjection.

5. I have heard it said that this would affect the credit of the individual and that it would not be possible for a person to secure the necessary finance for developing his property or business. I have to respect what I said already that this contention arises only when women come into the scene. If a man has, say, 6 children—all boys—this cry is not raised. If one is a girl among them immediately "the cry of credit" is raised. Is that justifiable? Moreover if a girl gets some property or its equivalent in money, she works it along with that of her husband and both these may help towards the credit of the individuals.

I quite grant that the lack of credit will seriously affect the welfare of our people. The credit system in this country needs immediate overhauling. But for this a woman should not be deprived of her right.

I need not call your attention to the practical difficulties our women undergo. In many instances whether of the unmarried daughter, mother, or widow, they have to depend not only on their sons or brothers or near relations but mainly on the wives of these men. The relationship in such cases has not been happy. I know of mothers and widows who have to move from one son to another for their sustenance. The situation of widows without children is tragic.

It is out of these experience that I have introduced these amendments for the consideration of the House.

Mr. Kochikal P. Balakrishnan Tampi: May I know whether the honourable member has ascertained the concensus of opinion between the different christian denominations in respect of this measure.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. K. Kuruvilla : I have not tried to take the opinion of the different communities. I take it that every intelligent Christian will certainly accept this amendment Bill of mine.

Mr. C. Sankara Menon : Is the member aware of any opposition to this Bill from any party ?

Mr. K. K. Kuruvilla : I am not aware of any.

Mr. James Fletcher : I support the introduction of the Bill. I may also say that there are still people among Christians who think that the Christian succession Act is not necessary, reason being that some of them are following the Hindu Law, so much so they stick to the Hindu Law and do not like to give the women any right to immovable property. Times have now changed. Even in British India, the people want their women to have a right in the immovable properties belonging to the family. There are many communities in our midst who follow the system of dividing the property among sisters and brothers equally. I refer to the Nair and Ezhava Acts. Both these Acts have been introduced lately and they accept the theory that brothers and sisters in a family should share the properties alike. I support the introduction of this Bill for another reason also. Our law should be in conformity with the law in British India and that principles contained in the Bill are in accordance with the Law in British India. A large number of marriages have taken place between the people of British India and those in Travancore. On that account, we must have a law in conformity with that prevailing now in British India. For these reasons I support the amendment Bill.

President : The question before the House is that the Christian Succession Act (Amendment) Bill be read in the Council.

The motion was put and carried.

The Secretary then read the Title of the Bill.

Mr. K. K. Kuruvilla : Sir I beg to move that the Christian Succession Act (Amendment) Bill be referred to a select committee consisting of the following members :-

Mrs. Abernam Gnanasikhamony
Miss. Thressia Kora
Mr. James Fletcher
„ Thomas Chandy Mukkadan
„ E. K. Kuriyppe
„ T. K. Kittan
„ Kallur Narayana Pillai
„ K. M. Kesavan
„ Kottur Kunjukrishna Pillai

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. N. Krishna Aiyar
„ Kochikal P. Balakrishnan Tampi
„ Puthupalli S. Krishna Pillai
„ T. W. U. Park

Mr. James Fletcher: A Muslim member may also be nominated.

Mr. K. K. Kuruvilla: I accept that suggestion and include Mr. T. Mahomed Ismail.

Mr. Kottur Kunjukrishna Pillai: I suggest the name of Mr. P. I. Simon on the select committee since he represents an important section of the Christian community.

Mr. K. M. Kesavan: I second it.

Mr. K. K. Kuruvilla: I accept his name.

The motion that the Bill be referred to a select committee consisting of the members indicated was next put to vote and carried.

THE TRAVANCORE SPECIAL MARRIAGE AND SUCCESSION BILL.

President: With regard to this Bill I rule the amendment No. 4. standing in the name of Miss. Thressia Kora, is out of order. Mr. Fletcher may now proceed to offer his remarks if any.

Mr. James Fletcher: Sir, the honourable members may be aware of the fact that a large number of meetings have been held by Muslims in various places and have passed resolutions requesting that the muslims may be exempted from the operation of this Bill. Therefore, that is an additional ground for me to support the amendment namely that the Muslims may be exempted from the operation of this Bill.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I oppose the amendment on the ground that it is not fair to the name of this House and its reputation outside that a particular group should intimidate us into some sort of submission regarding this measure.

Mr. K. M. Kesavan: What is that about ?

Mr. Kochikal P. Balakrishnan Tampi: Incidentally for the information of the House I may say that there is a scurrilous pamphlet put into our hands by a certain association. But I do not want to mention the name of the author fearing that he will be getting just the thing that he wants, I mean unnecessary notoriety. Insinuation is made that members here are actuated by class feeling and are out of ulterior motives siding with the majority,

LIBRARY ARCHIVES Kerala Legislative Assembly